

# No Pardon Restrictions

Washington

The Supreme Court ruled yesterday that the Constitution gave American presidents virtually unlimited power to attach conditions when they grant pardons or commute sentences.

On a 6-to-3 vote, the court upheld President Eisenhower's decision to spare the life of a convicted murderer on condition that he never be paroled.

The decision means that Maurice L. Schick, a former Army sergeant who has been jailed since 1954 for killing an 8-year-old girl, will remain in federal prison for the rest of his natural life.

The ruling also appeared to doom former Teamsters president James R. Hoffa's challenge to the condition imposed by President Nixon when he granted Hoffa executive clemency three years ago.

Mr. Nixon commuted Hoffa's 13-year sentence for jury tampering and mail fraud to five years, making him eligible for immediate parole. But, as a condition of his release, the one-time union chief was barred from engaging in Teamster activities until 1980.

Hoffa wants to be free from that restriction so he can seek the union's presidency in 1976. He has argued, in a case now pending in the U.S. Court of Appeals here, that the ban was unconstitutional and resulted from a conspiracy among White House officials and Frank E. Fitzsimmons, the present Teamsters president, to protect Fitzsimmons' job.

The majority opinion, written by Chief Justice Warren E. Burger, was so sweeping that it appeared to bear on both the Hoffa and Schick cases.

"This court has long read the Constitution as authoriz-

ing the President to deal with individual cases by granting conditional pardons," said Burger, citing an 1855 case in which the high court upheld a conditional commutation. "The very essence of the pardoning power is to treat each case individually."

Burger rejected the contentions of Schick's lawyers that the condition imposed on him was unconstitutional because Congress, in writing the Uniform Code of Military Justice, never authorized military courts to withhold parole from a convicted murderer.

When Schick, then stationed in Japan, was court-martialed and sentenced, the Uniform Code provided only two punishments for murder: death or life imprisonment with the possibility of parole after 15 years.

But Burger said, "Presidents throughout our history . . . have exercised the power to pardon or commute sentences upon conditions that are not specifically authorized by statute . . . The power flows from the Constitution alone, not from any legislative enactments, and . . . it cannot be modified, abridged or diminished by Congress."

In a dissent joined by Justices William O. Douglas and William J. Brennan Jr., Justice Thurgood Marshall said Mr. Eisenhower usurped the function of Congress by imposing a sentence unauthorized by law.

*Los Angeles Times*